

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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In the Matter of :

DEC 13 2004

REQUEST FOR REVIEW BY :

Federal Communications Commission
Office of Secretary

HISPANIC INFORMATION
AND TELECOMMUNICATIONS
NETWORK, INC. :

CC Docket No. 02-6

Review of Rescission by Schools
and Libraries Division of Funding
Commitment For Year 2000-2001 :

SLD Funding Request No. 423091

To the Commission:

**REQUEST FOR REVIEW OF DECISION
BY SCHOOLS AND LIBRARIES DIVISION
TO RESCIND FUNDING COMMITMENT
FOR FUNDING YEAR 2000-2001**

Hispanic Information and Telecommunications Network, Inc, ("HITN"), through the undersigned counsel, and pursuant to 47 C.F.R. Sections 54.719(c) and 54.721, hereby requests review of the "Administrative Decision on Appeal" and the "Commitment Adjustment Letter" of Universal Service Administrative Company's Schools and Libraries Division ("SLD") regarding funding for year 2000-2001 granted to one HITN customer or that funding year. A copy of the final Administrative Decision on Appeal, dated October 13, 2004, is attached hereto as HITN Attachment 1, and a copy of the SLD's initial Commitment Adjustment Letter, dated May 14, 2004, is attached hereto as HITN Attachment 2.

By way of these two decisions, the SLD has rescinded the funding previously granted for equipment and services already provided by HITN to Biblioteca Residencial Aguadilla

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(“Aguadilla”) for funding year 2000-2001. For the reasons set forth below, the Commission should reverse the SLD’s rescission of the original funding commitment.

For purposes of this appeal, HITN submits the following identifying information:

Funding Year:	2000-2001
Applicant Name:	Biblioteca Residencial Aguadilla
Funding Request Number:	423091
Form 471 Application Number:	194580
Site Identifier:	199704
Billed Entity Number:	199704
SPIN:	143006644
Service Provider:	Hispanic Information and Telecommunications Network, Inc.
Services Ordered:	Internal Connections

I. The SLD Disregarded the Information HITN Submitted Regarding Equipment Installation for the Biblioteca Residencial Aguadilla.

The Commitment Adjustment Letter stated that the SLD auditors – KPMG – could not locate the equipment that was funded for the Biblioteca Residencial Aguadilla (Aguadilla residence library). However, in its appeal, HITN provided several pieces of contemporaneous evidence demonstrating that the equipment was installed in the Aguadilla housing complex. HITN’s letter of Appeal is hereto attached as Attachment 3.

The Aguadilla housing community is composed of several buildings, including the Juan Ducos building and the Agustin Stahl building. The records HITN provided to SLD demonstrate delivery of equipment on May 15, 2000, and installation of equipment on July 7 and 14, 2000 in the Agustin Stahl building.

As HITN explained in its SLD appeal, the equipment was originally installed in the Juan Ducos residence. After the installation, the Puerto Rico Housing Administration made a policy change and decided to place libraries only in the larger buildings. Agustin Stahl is a

larger building than the Juan Ducos building. This change of policy was not under HITN's control; and HITN complied with the change by moving the equipment and reinstalling it in the Agustin Stahl residence at the customers' request. A copy of the installation records is attached hereto as Attachment 4.

When KPMG searched for the equipment, it looked in the Juan Ducos building, the location specified by Biblioteca Residencial Aguadilla on its FCC Form 471. The auditors apparently did not inquire as to whether or where the equipment was currently installed, and therefore reached the mistaken conclusion that the equipment had never been installed.

The confusion apparently arose because Form 471 asks for the library mailing and contact information, in addition to a contact person. The form is not clear that the equipment must be installed at the billing address specified in Form 471 and, in fact, the billing address may differ from the actual service address. Block 1 asks for the Billed Entity Information, specifying that the Billed Entity is the entity paying the bills for the services listed on this form (Form 471, page 1). Block 6 asks for a contact persons' information. In addition, page 6 of Form 471 requests the "Authorized Person" allowed to order services to provide their information. Significant for purposes of this appeal, nowhere in Form 471 does it ask the specific address that the equipment will be delivered and installed.

The SLD Decision on Appeal states that Biblioteca Residencial Aguadilla did not maintain an asset register and could not verify that the equipment was installed. There was no SLD or FCC requirement for the library to keep an "asset register" and any failure by the library to keep such records is of no consequence in this decision. HITN provided to SLD the signed certifications for the equipment installation and SLD is choosing to disregard

those records in favor of a nonexistent asset register that was not required by its funding procedures.

The fact is, this equipment is still in the library today. Therefore, as HITN provided the SLD with ample evidence that the equipment was installed in the Aguadilla housing complex as required, the decision to rescind funding must be reversed.

II. HITN Was Selected through a Competitive Bidding Process that Complied with SLD Procedures

The Commitment Adjustment Letter stated that there was no competitive bidding process for services provided to Aguadilla, yet it provides no evidence whatsoever regarding specific violations of the competitive bidding requirement. Commitment Adjustment Letter, page 4. HITN submitted information to SLD regarding the process that the Consorcio de Escuelas y Bibliotecas de Puerto Rico (“CEBPR”) undertook when selecting service providers to serve its members. Nevertheless, without providing any specific evidence, the SLD Administrative Decision on Appeal stated that a competitive bidding violation and conflict of interest exist when an applicant’s consultant who is involved in determining the products and/or services sought by the applicant and who is involved in the selection of the applicant’s service providers, is associated with the service provider that was selected. SLD Administrative Decision on Appeal, page 3.

HITN reiterates that a competitive bidding process was conducted by the Consorcio de Escuelas y Bibliotecas de Puerto Rico (“CEBPR”). In preparation for its response to the SLD’s Commitment Adjustment Letter, HITN reviewed the history of its involvement as a bidder in this process and relayed the information to SLD regarding the competitive bidding

process conducted by the CEBPR from HITN's standpoint. CEBPR filed a Form 470, Request for Proposals on behalf of the libraries, as required by the rules, and entertained all bids received from interested parties on behalf of its member schools and libraries as required by SLD procedures. HITN submitted its bid to provide internal connections and Internet services to consortium members, including Aguadilla – and as far as HITN understands, it was the only bidder.

As reason for concluding a competitive bidding violation, the SLD Decision on Appeal points to no specific or concrete evidence of an actual violation, but rather, suggests that HITN had a consultant involved in the CEBPR's competitive bidding process. HITN did not have a consultant involved in the CEBPR's competitive bidding process. The contact persons listed on Form 471 were representatives of the CEBPR and the Aguadilla library.

HITN was selected when no other provider submitted any other bid for internal connections or Internet services in 2000-2001. HITN should not be penalized for being the only entity to submit a bid. HITN's commitment to serving the underprivileged in Puerto Rico is unwavering in the face of the bureaucratic problems with the SLD that HITN is still facing today, including this negative and unfounded SLD decision on appeal.

III. The SLD Is Seeking Improperly To Penalize HITN for Aguadilla's Nonpayment of the Local Portion of Costs.

The SLD Commitment Adjustment Letter states that the applicant failed to pay the non-discounted portion of funding supplied under this program, but holds HITN responsible for this failure. Commitment Adjustment Letter at page 4.

The obligation to pay the non-funded amount is the responsibility of Bibliotheca Residencial Aguadilla, not HITN. In fact, the SLD confirms this in its statement in the

Administrative Decision on Appeal, noting: FCC rules require applicants to certify that, at the time they submit the FCC Form 471, they have secured access to all of the resources, including the non-discounted charges for eligible products and/or services. SLD

Administrative Decision, page 3, citing 47 CFR Sec. 54.504(b). There is no requirement for a service provider to pay the applicant's non-discount local share. The rules expressly forbid a service provider from covering any part of the applicant's required portion of the contract price. Further, HITN as service provider, cannot be found to have violated a rule that specifically required an applicant to pay its local share when the applicant fails to pay the service provider. It is HITN who is harmed in this instance, and the SLD should be pursuing the applicant for any program rule violation it perceives.

HITN was not responsible for ensuring that Biblioteca Residencial Aguadilla pay its non-discounted portion of funding; in fact, HITN has absolutely no control over whether the applicant will ultimately pay its debts. Notwithstanding that Aguadilla failed to pay its local share (and still has not paid as of the date hereof), HITN, though not responsible for payment of the local share, has made commercially reasonable efforts to inform all parties, including Bibliotheca Residencial Aguadilla, the CEBPR, and the Puerto Rico Housing Department of the obligation to pay, and to collect any and all debts owed.¹

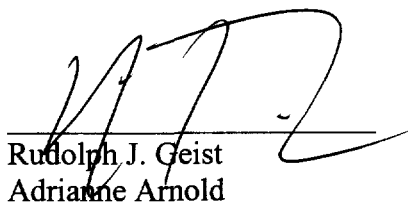
HITN, in no way, should be held responsible for Aguadilla's failure to pay, and surely this should not be a factor in rescinding funding for services provided in 2000-2001.

¹ Please see HITN Attachment 5, Letter from HITN Counsel to Puerto Rico Housing Administration, dated January 24, 2003, requesting immediate payment of the required local share. This letter also reminds the Housing Administration of their obligation under the SLD program to pay the local share.

CONCLUSION

Therefore, for the reasons set forth above, the Commission should reverse the Administrative Decision on Appeal of the Schools and Libraries Division and reinstate the funding initially committed for services HITN provided to Biblioteca Residencial Aguadilla in funding year 2000-2001.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'RJG', is written over a horizontal line.

Rudolph J. Geist
Adrianne Arnold

8401 Ramsey Avenue
Silver Spring, Maryland 20910
Tel. 301-589-2999

Emails: rgeist@rjglawllc.com
aarnold@rjglawllc.com

Counsel for Hispanic Information and Telecommunications Network, Inc.

Date: December 13, 2004

HITN Attachment 1



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2000-2001

October 13, 2004

Loretta J. Garcia
RJGLaw LLC
8401 Ramsey Avenue
Silver Spring, MD 20910

Re: Biblioteca Residencial Aguadilla

Re: Billed Entity Number: 199704
 471 Application Number: 194580
 Funding Request Number(s): 423091
 Your Correspondence Dated: July 13, 2004

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Funding Year 2000 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 423091
Decision on Appeal: **Denied in full**
Explanation:

- On appeal, you disagree with the SLD conclusions in the Commitment Adjustment Letter by addressing each conclusion individually:
 1. In regards to the equipment that could not be located, you assert that the equipment is installed and operating in the Agustin Stahl community of the Aguadilla housing complex. However, the equipment was initially installed in the Juan Ducos residence and later reinstalled in the Dr. Agustin Stahl community.
 2. The competitive bidding process was conducted by the Consorcio de Escuelas y Biblioteca de Puerto Rico, Inc. (CEBPR) of which the Biblioteca Residencial de Aguadilla was a member of the consortium. Dr. Moises Velasquez was a manager of the CEBPR. According to conversations

between Mr. Cruz and Dr. Velasquez, the consortium's staff reviewed HITN's bid and selected HITN to provide service to the member schools and libraries.

3. HITN diligently notified the Biblioteca Aguadilla and the Puerto Rico Housing Department of the obligation to pay the non-discounted portion of the funding. HITN notes that the obligation to pay the local amount not funded by USAC is the obligation of the applicant, not HITN. Notwithstanding that the obligation lies with the entity, HITN made diligent efforts to inform the Biblioteca Residencial de Aguadilla of the obligation to pay the local portion of the services provided through the federal universal service program.

- Upon review of the appeal letter and the relevant supporting documentation, it has been determined by the SLD that the Commitment Adjustment Letter was correctly issued. An audit was conducted by KPMG at Biblioteca Residencial Aguadilla (BRA) on April 24, 2003. One major infraction identified by the auditors, among others, was that the equipment funded under the e-rate program for Internal Connections was not on site at the location specified on the FCC Form 471. Since the applicant did not maintain an asset register, KPMG could not verify that the equipment was originally installed and operational in the intended eligible location. BRA did not have any confirmation that the equipment was delivered and installed by HITN. Furthermore, BRA has also failed to pay for their portion of the non-discounted amount which was submitted for reimbursement by HITN. During the audit, the applicant has stated that the reason for not paying their portion is because the service provider did not provide "certification" as required by the governmental organization to process the payment. Lastly, the audit disclosed a violation of the competitive bidding process and the applicant concurred with the audit observation and believes the procurement procedures were not followed. Your appeal has not brought forward persuasive information that the SLD's decision to rescind the commitment for the Biblioteca Residencial de Aguadilla was incorrect. SLD can not accept new information on appeal unless the applicant was not given an opportunity to provide this information or an error was made by the SLD. Consequently, the appeal is denied.
- FCC rules require applicants to seek competitive bids, and in selecting a service provider to carefully consider all bids. 47 C.F.R. §§ 54.504(a), 54.511(a). FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements. 47 C.F.R. § 54.504(a), (b)(2)(vi). In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeal decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470, and MasterMind participated in the competitive bidding process initiated by the FCC Form 470. *Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 4028, FCC 00-167, ¶ 9 (rel. May 23, 2000). The FCC reasoned that under those

circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied. *Id.* Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone, fax numbers, and e-mail address.

- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment and preventing an unfair competitive advantage. *See, e.g.,* 48 C.F.R. § 9.505(a), (b). A competitive bidding violation and conflict of interest exist when an applicant's consultant, who is involved in determining the products and/or services sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with the service provider that was selected.
- FCC rules require applicants to certify that, at the time they submit the FCC Form 471, they have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the products and/or services purchased as well as to pay the non-discounted charges for eligible products and/or services. 47 C.F.R. § 54.504(b); FCC Form 471, Block 6 Item 25. SLD reviews this certification by conducting an Item 25 "necessary resources" review. The FCC has emphasized the importance of conducting this review to protect the integrity of the schools and libraries support mechanism. *Request for Review by New Orleans Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd. 16,653, DA 01-2097 (rel. Sep. 18, 2001). This rule requires the applicant to pay its service provider the full cost of the non-discounted portion owed to the service provider from the funds budgeted within that funding year.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the Federal Communications Commission (FCC). For appeals that have been denied in full, partially approved, dismissed, or cancelled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Moises Velasquez
Biblioteca Residencial Aguadilla
Carr 107 Hacia la Base Ramey
Aguadilla, PR 00603

HITN Attachment 2



Universal Service Administrative Company
Schools & Libraries Division

COMMITMENT ADJUSTMENT LETTER

May 14, 2004

Jose Rodriguez

Hispanic Information Telecommunications Network, Inc.
449 Broadway, Third Floor
New York, NY 10013

RECEIVED MAY 20 2004

Re: COMMITMENT ADJUSTMENT

Funding Year 2000 -2001

Form 471 Application Number: 194580

Applicant Name Biblioteca Residencial Aguadilla

Contact Person: Moises Velásquez

Contact Phone: 787-834-6095

Dear Service Provider Contact:

Our routine reviews of Schools and Libraries Program funding commitments revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, SLD must now adjust these funding commitments. The purpose of this letter is to inform you of the adjustments to these funding commitments required by program rules.

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the FRNs from the application for which adjustments are necessary. The SLD is also sending this information to applicant, so that you may work with them to implement this decision. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

Please note that if the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the funds disbursed. The amount is shown as Funds to be Recovered. We expect to send you a letter describing the process for recovering these funds in the near future, and we will send a copy of the letter to the applicant. If the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount.

TO APPEAL THIS DECISION:

If you wish to appeal the Funding Commitment Decision indicated in this letter, your appeal must be **POSTMARKED** within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Commitment Adjustment Letter you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.
3. When explaining your appeal, copy the language or text from the Commitment Adjustment Letter that is at the heart of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125- Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket Nos. on the first page of your appeal to the FCC. Your appeal must be **POSTMARKED** within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

A GUIDE TO THE FUNDING COMMITMENT REPORT

Attached to this letter will be a report for each funding request from your application for which a commitment adjustment is required. We are providing the following definitions.

- **FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each request in Block 5 of your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.
- **SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support programs.
- **SERVICE PROVIDER:** The legal name of the service provider.
- **CONTRACT NUMBER:** The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.
- **SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.
- **SITE IDENTIFIER:** The Entry Number listed in Form 471 for "site specific" FRNs.
- **BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.
- **ADJUSTED FUNDING COMMITMENT:** This represents the adjusted total amount of funding that SLD has committed to this FRN. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.
- **FUNDS DISBURSED TO DATE:** This represents the total funds which have been paid up to now to the identified service provider for this FRN.
- **FUNDS TO BE RECOVERED:** This represents the amount of Funds Disbursed to Date that exceed the Adjusted Funding Commitment amount. These funds will have to be recovered. If the Funds Disbursed to Date do not exceed the Adjusted Funding Commitment amount, this entry will be \$0.
- **FUNDING COMMITMENT ADJUSTMENT EXPLANATION:** This entry provides a description of the reason the adjustment was made.

Funding Commitment Report for Application Number: 194580

Funding Request Number 423091 SPIN: 143006644
Service Provider: Hispanic Information Telecommunications Network, Inc
Contract Number: C
Services Ordered: INTERNAL CONNECTIONS
Site Identifier: 199704 Biblioteca Residencial Aguadilla
Billing Account Number:
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date: \$21,879.50
Funds to be Recovered: \$21,879.50

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that committed amounts for this FRN must be rescinded. An audit noted the following exceptions: the applicant had failed to pay the non-discounted portion, the equipment that was funded could not be located, and there was no documentation to verify that a competitive bidding process had occurred. FCC rules require the applicant to pay its service provider the full cost of the non-discounted portion owed to the service provider from funds budgeted within the funding year (see FCC Form 471, Block 6, item 25). Additionally, FCC rules require that products and services be used for educational purposes. Since the equipment could not be located there is no assurance that the equipment was installed or put to an educational use. Due to the above noted violations of the rules of this Schools and Libraries Support Mechanism, the \$21,879.50 commitment amount for this FRN has been rescinded.

HITN Attachment 3

RJGLAW LLC

8401 RAMSEY AVENUE
SILVER SPRING, MD 20910
TEL. (301) 589-2999
FAX: (301) 589-2644

July 13, 2004

Via Electronic Mail:
appeals@sl.universalservice.org

Letter of Appeal
Schools and Libraries Division
Universal Service Administrative Co.
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

Re: Appeal of Commitment Adjustment re FRN 423091, dated May 14, 2004
Hispanic Information & Telecommunications Network, Inc.; SPIN: 143006644

Dear Sir or Madam:

This letter is an appeal of the Commitment Adjustment Letter from Universal Service Administrative Co./Schools and Libraries Division to Hispanic Information & Telecommunications Network, Inc. ("HITN"), dated May 14, 2004. A copy of that Commitment Adjustment Letter is attached hereto as HITN Attachment 1.

I For purposes of this appeal, HITN provides the following information regarding the USAC Commitment that is the subject to this Appeal:

Funding Year: 2000-2001
Applicant Name: Biblioteca Residencial Aguadilla
Funding Request Number: 423091
Form 471 Application Number: 194580
Site Identifier: 199704
Billed Entity Number: 199704
SPIN: 143006644
Service Provider: Hispanic Information & Telecommunications Network, Inc.
Services Ordered: Internal connections

This appeal addresses the SLD's conclusion that HITN must return to USAC/SLD the funding amount committed and received by HITN as reimbursement for Biblioteca Residencial Aguadilla, Application Number 194580. Commitment Adjustment Letter page 1. This appeal also addresses the SLD's statement that these funds were committed to HITN "in violation of program rules." Id. Specifically, HITN's appeal focuses on the following language from the USAC Commitment Adjustment Letter:

After a thorough investigation, it has been determined that committed amounts for this FRN must be rescinded. An audit noted the following exceptions: the applicant had failed to pay the non-discounted portion, the equipment that was funded could not be located, and there was no documentation to verify that a competitive bidding process had occurred. FCC rules require the applicant to pay its service provider the full cost of the non-discounted portion owed to the service provider from funds budgeted within the funding year (see FCC Form 471, Block 6, item 25). Additionally, FCC rules require that products and services be used for educational purposes. Since the equipment could not be located, there is no assurance that the equipment was installed or put to an educational use. Due to the above noted violations of the rules of this Schools and Libraries Support Mechanism, the \$21,879.50 commitment amount for this FRN has been rescinded.

II Funds committed to HITN for the Biblioteca Residencial Aguadilla were not used in violation of SLD requirements.

A. The equipment that could not be located is installed and operating in the Agustin Stahl community of the Aguadilla housing complex.

The Commitment Letter states that the equipment that was funded could not be located. See HITN Attachment 1, SLD Commitment Adjustment Letter, page 4.

In preparation of this appeal, HITN's counsel reviewed the documents related to the Biblioteca Residencial Aguadilla, where the library subject to this appeal is located. According to HITN records, Artcom installed the HITN antenna and other equipment in